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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,140	08/03/2000	Roger P. Hoffman	P/2-72	1313

7590 02/25/2003

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GARDEN CITY, NY 11530

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 02/25/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

A29

**Office Action Summary**

Application No.

09/632,140

Applicant(s)

HOFFMAN, ROGER P.

Examiner

Marc A Patterson

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

#### WITHDRAWN REJECTIONS

1. The 35 U.S.C 112 second paragraph rejections of Claims 1 – 4, of record on page 2 of the previous Action, are withdrawn.

#### REPEATED REJECTIONS

2. The 35 U.S.C. 103(a) rejection of Claims 1 – 4 as being unpatentable over Merdem et al (U.S. Patent No. 5,057,359) in view of Massouda (U.S. Patent No. 5,116,649), of record on page 2 of the previous Action, is repeated.

#### ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments regarding the 35 U.S.C. 112 second paragraph rejection, of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn.

Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 1 – 4 as being unpatentable over Merdem et al (U.S. Patent No. 5,057,359) in view of Massouda (U.S. Patent No. 5,116,649), of record on page 2 of the previous Action, have been considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 4, that Merdem et al do not disclose a beverage carrier; Merdem et al, Applicant argues, teach a beverage container, whereas the claimed invention is a carrier for beverage containers. However, Claim 1 does not specify a carrier for beverage

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containers; furthermore, a beverage container clearly also carries a beverage, and is therefore a beverage carrier.

Applicant also argues, on page 4, that Merdem et al do not teach that the outermost layer is a non – corrugated paper layer. However, an outermost layer of non – corrugated layer is not claimed; furthermore, as stated on page 2 of the previous Action, Merdem et al disclose a non – corrugated paper layer which is an outer layer relative to the layer of paperboard.

Applicant also argues, on page 5, that Merdem et al do not teach that there are printed graphics disposed on the outer surface of the paper. However, as stated on page 2 of the previous Action, Massouda teaches that it is known in the art to print the outer polyolefin layer of a paperboard beverage container, for the purpose of obtaining a package having a desirable appearance (column 3, lines 32 – 42). It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for printing of the outer surface in Merdem et al in order to obtaining a package having a desirable appearance as taught by Massouda.

Applicant, also argues, on page 5, that the adhesive layers taught by Merdem et al may have dye pigments which provide impermeability to light, therefore printing on the paper would not be seen from outside the adhesive. However, the use of dye pigments is clearly optional, thus Merdem et al do not teach away from printing the outer surface of the paper layer.

Applicant also argues, on page 6, that the outer low density polyethylene surface of Massouda is corona treated for printing if desired, whereas in the present invention the outer layer is the layer of paper which has printed graphics on it. However, as stated above, Merdem et

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al disclose a non – corrugated paper layer which is an outer layer, relative to the layer of paperboard.

Applicant also argues, on page 7, that Merdem et al do not disclose a material which absorbs water. However, as stated on page 2 of the previous Action, air is clearly disposed on the outer surface of Merdem et al, as Merdem et al do not disclose a vacuum.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold

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Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

*Marc Patterson*

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*Harold Pyon*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

*2/24/03*